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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,941

12/30/2003

Michael Shoen Davis

131713-1

1911

23413 7590 09/23/2008  
CANTOR COLBURN, LLP  
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EXAMINER

CHEN, VIVIAN

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

09/23/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

## **DETAILED ADVISORY ACTION**

1. Claims 1-5, 7, 13, 19-22, 24-26, 28, 30, 32-38, 40-46 have been cancelled by Applicant.

### ***Priority***

1. In response to Applicant's new claim of domestic priority as filed on 4/17/2007:

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The parent applications 10/310,295 (filed 12/5/2002) and 09/908,396 (filed 7/18/2001) and 09/368,708 (filed 8/5/1999) as originally filed does not provide support for a substantial number of the present claims (e.g., the requirement of three distinct copolymers in the inner tie layer, specific stabilizers, melt flow properties, additional layers, etc.). Therefore:

claims 6, 8-10, 12, 14-18, 27, 31, 39 are deemed to have an effective filing date of 12/30/2003;

claims 11, 23, 29, 47-48 are deemed to have an effective filing date of 08/05/1999.

### ***Double Patenting***

1. Claims 6, 8-12, 14, 23, 27, 29, 31, 39, 47-48 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

(a) claims 1-37 of copending Application No. 10/895,522 (US 2006/0017193);

in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions,

for the reasons stated in the previous Office Action.

2. Claims 11-12 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

(a) claims 1-37 of copending Application No. 10/895,522 (US 2006/0017193);  
in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions,  
as applied to claim 1 above;  
and further in view of HASHIMOTO ET AL (US 6,780,917),  
for the reasons stated in the previous Office Action.

3. Claim 31 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

(a) claims 1-37 of copending Application No. 10/895,522 (US 2006/0017193);  
in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions,  
as applied to claim 1 above;  
and further in view of BURKE (US 5,080,950),  
for the reasons stated in the previous Office Action.

***Claim Rejections - 35 USC § 103***

4. Claims 6, 8-10, 12, 14-18, 27, 31, 39 remain rejected under 35 U.S.C. 103(a) as being unpatentable over:

Art Unit: 1794

BRUNELLE ET AL (US 6,306,507) or BRUNELLE ET AL (US 6,265,522) or WO 00/61664 (WO '664);

in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions,  
for the reasons stated in the previous Office Action.

5. Claim 12 remains rejected under 35 U.S.C. 103(a) as being unpatentable over:

BRUNELLE ET AL (US 6,306,507) or BRUNELLE ET AL (US 6,265,522) or WO 00/61664;

in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions;  
as applied to claim 1 above;  
and further in view of HASHIMOTO ET AL (US 6,780,917),  
for the reasons stated in the previous Office Action.

6. Claims 31 remains rejected under 35 U.S.C. 103(a) as being unpatentable over:

BRUNELLE ET AL (US 6,306,507) or BRUNELLE ET AL (US 6,265,522) or WO 00/61664;

in view of GAGGAR ET AL (US 6,720,386) or Applicant's Admissions;  
as applied to claim 1 above;  
and further in view of BURKE (US 5,080,950),  
for the reasons stated in the previous Office Action.

***Response to Arguments***

1. Applicant's arguments filed 9/5/2008 have been fully considered but they are not persuasive.

(A) The outstanding obviousness-type double patenting rejections remain pending because the present claims have not been held to be allowable.

(B) Applicant argues that BRUNELLE ET AL '507 and '522 and WO '664 are not proper 35 U.S.C. 103 references against the present application. However, as stated above, the parent applications 10/310,295 (filed 12/5/2002) and 09/908,396 (filed 7/18/2001) and 09/368,708 (filed 8/5/1999) as originally filed does not provide support for a substantial number of the present claims. The Examiner disagrees with Applicant's allegation that the Examiner has not satisfied the initial burden of presenting evidence since the Examiner has clearly listed the claims (and therefore the relevant subject matter) and explicitly stated that the parent applications do not provide support for said subject matter in question (i.e., the claimed subject matter is not adequately disclosed by the parent applications). Applicant has not provided any persuasive evidence to the contrary (i.e., that the parent applications do in fact contain support for the subject matter in question). However, purely as a courtesy to Applicant, the Examiner sets forth a detailed list of the claimed subject matter not supported by the parent applications.

With respect to claims 6, 8-10, the parent applications do not provide support for inner tie layer compositions containing three distinct copolymers, with the third copolymer component being a styrene acrylonitrile (SAN) copolymer, nor does do the parent applications disclose or provide support for the presence of SAN copolymers (as distinguished from ASA and ABS copolymers) in the substrate layer. The parent applications only provide support for inner-tie

Art Unit: 1794

layers (referred to as "substrate layers" in the parent applications) containing two copolymer components -- specifically PC blended with ASA or PC blended with ABS.

With respect to claim 12, the parent applications do not provide any support (i.e., fails to make any mention whatsoever) for the recited stabilizer compound.

With respect to claim 14, the parent applications do not provide any support for the recited melt flow index values.

With respect to claims 15-18, the parent applications do not provide support for the recited sublayers, especially with regard to the presence of two or more sublayers.

With respect to claim 27, the parent applications do not provide any support for the recitation of vacuum forming.

With respect to claims 29, 31, the parent applications do not provide any support for the recited additional substrate layer (i.e., a four layer laminate structure).

With respect to claims 29, 31, the parent applications do not provide any support for the recited foamed polyurethane material.

With respect to claim 39, the parent applications do not provide any support for the recited requirement of a class "A" finish.

Therefore, claims 6, 8-10, 12, 14-18, 27, 31, 39 are deemed to have an effective filing date of 12/30/2003 and the BRUNELLE ET AL '507 and '522 and WO '664 references qualify as prior art against the above claims under the provisions of 35 U.S.C.102(b). If Applicant contends that the parent applications provide support for the above listed claims, the Applicant should point out with specificity the portions of each parent application which provide support for each claim in order to establish the alleged effective filing date for each claim.

***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 15, 2008

/Vivian Chen/

Primary Examiner, Art Unit 1794